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SUPREME COURT, U. S.

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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1973

No. _____, Misc.

Supreme Court, U. S.
FILED
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J. ALEX COTA,

Petitioner and Appellant,

vs.

OTIS CHANDLER, DAVE SMITH, PAUL HOUSTON, THE LOS ANGELES TIMES, A DIVISION OF THE TIME MIRROR COMPANY (SUED AS THE LOS ANGELES TIMES, INC., A CORPORATION), AND DOES I TO XX, INCLUSIVE,

Defendants and Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

J. ALEX COTA

P.O. Box 24352
Los Angeles, CA 90024
(213) 475-1214

Petitioner in Propria Persona

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Defendants and Respondents.

PETITION FOR
WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE
STATE OF CALIFORNIA

Petitioner, J. Alex Cota, also known as Plaintiff herein, respectfully prays that a Writ of Certiorari issue to review the order of the Supreme Court of the State of California dated May 16, 1973 denying a

hearing and the opinion of the Court of Appeal, Second Appellate District, Division One, filed March 22, 1973, which affirmed summary judgment in the Superior Court for defendants in an action for libel. Opinion of the Court of Appeal, Second Appellate District, Division One and the Notice of Order of May 16, 1973 from the Supreme Court of California stating "Hearing Denied" are appended hereto.

JURISDICTION

THE ORDER denying a hearing in the Supreme Court of California was filed on May 16, 1973. This petition for Writ of Certiorari was filed within ninety days of that date. This Court's jurisdiction is invoked under the United States Constitution, Amendment One, and the United States Supreme Court cases cited herein.

After the defendants or respondents refused a written demand for a retraction, the petitioner brought this action for libel in the Superior Court against Otis Chandler, publisher of the Los Angeles Times, The Los Angeles Times, a division of the Times

Mirror Company, Dave Smith and Paul Houston, two staff writers for the Los Angeles Times who wrote the libel about petitioner in said newspaper, and Does I to XX, inclusive.

After the respondents refused a written demand for a retraction, the petitioner brought this action for libel in the Superior Court against Otis Chandler, publisher of the Los Angeles Times, The Los Angeles Times, a division of the Times Mirror Company, Dave Smith and Paul Houston, two staff writers for the Los Angeles Times who wrote the libel about petitioner in said newspaper, and Does I to XX, inclusive. Though the respondents also invoked the United States Constitution, First Amendment, the judgment is both contrary to law and fact.

LIBELOUS STATEMENTS PUBLISHED BY RESPONDENTS, WHICH ARE BASED UPON ANONYMOUS (UNKNOWN TO RESPONDENTS THEMSELVES) VOICES IN AN OBSCENE CROWD DURING A CHAOTIC RECESS, STEMMED NOT FROM FREE AND OPEN DEBATE, BUT RATHER FROM VICIOUS ATTEMPTS TO SILENCE PETITIONER'S RIGHT TO FREEDOM OF SPEECH UNDER THE UNITED STATES CONSTITUTION, FIRST AMENDMENT

As the declarations of respondents clearly show, they were fully aware, well before they published their libelous statements, that petitioner's place of business was located in Westwood, which is WEST Los Angeles. However, respondents disregarded their own actual knowledge and recklessly published the false and vicious libel that "... several youths accused Cota of selling slum housing in East Los Angeles and deploring the riots because of his investments." There were other serious inaccuracies and falsehoods in respondents' declarations and libelous article.

In his complaint for libel, the petitioner, or plaintiff herein, stated that the respondents' article was libelous per se. It is vicious not only because it

falsely attacks the petitioner's livelihood or occupation as a Real Estate Broker but, even more dangerous, as events have borne out, it was and is extremely perilous to the safety and well-being of the petitioner, as well as to his freedom of speech under the United States Constitution, First Amendment.

After the respondents published their malicious, false and completely unsubstantiated libel about petitioner in the Los Angeles Times, the office of an East Los Angeles Realtor, Mr. Al Cota, was firebombed by persons calling themselves the "Chicano Liberation Front" or "CLF" in the mistaken belief they were bombing the office of the petitioner. This East Los Angeles Realtor, Al Cota, is in no way related, business or otherwise, to the petitioner. J. Alex Cota, petitioner, is a West Los Angeles Real Estate Broker. The petitioner, J. Alex Cota, contrary to the dangerous libel written by respondents, not only did not, and does not, sell slum housing in East Los Angeles, but did not, and does not, have an office in East Los Angeles. Moreover, the respondent David

Smith, Los Angeles Times Writer, had actual personal knowledge of the fact that petitioner, J. Alex Cota, was a Westwood businessman. Respondent Smith knew J. Alex Cota was a Westwood businessman well before he wrote his libelous article, as his own declaration clearly shows (C.T. p. 19, lines 23-24).

Respondent Smith had information which would have caused a reasonably prudent reporter to question false statements emanating from anonymous, unsubstantiated (as his libelous article and his declaration show) sources in an obscene crowd, during a chaotic recess. Respondents relied upon anonymous sources unknown even to themselves. This shows a reckless disregard of the truth. Respondent Smith's careless writing or dangerous libel against the plaintiff gave vicious motive or justification for "Chicano Liberation Front" terrorists to fire-bomb. The "CLF" subsequently fire-bombed the office of petitioner, J. Alex Cota, in West Los Angeles. The Los Angeles times was the only news media that published this false and vicious libel which gave malicious motive to terrorists.

The Los Angeles Times is like the fellow who hands an amplifier or megaphone to one who maliciously uses it to yell "fire" in a crowded theater. That malicious voice would never have been heard in the crowd had not the Los Angeles Times amplified it in its false publication.

STATEMENT OF CASE

Los Angeles Times reporter, Ruben Salazar, was killed during a terrible disorder in East Los Angeles. Prior to and on September 23, 1970, a coroner's inquest into his death was conducted. Among those attending the inquest as spectators were members of extremely militant "Chicano" groups. The militants monopolized the television and news media with hostile regularity during recesses of the inquest. Day after day went by with more and more hostility being developed by the Chicano militants. Each day during recess these militants spewed out a constant stream of hatred into the community via television. There was no one to counter-balance these statements of animosity which were designed

to arouse feelings of violence and passion in the community.

The petitioner was born and raised in the East Los Angeles community and recognized that these militant "regulars" would cause greater tensions toward violence, if no voice other than theirs could be heard through the news media. Greater violence did, in fact, result when some of these same militant "regulars" later appeared with their hostile harangues before crowds in East Los Angeles. Horrible riots erupted which might easily have been avoided by constructive, temperate voices calling for non-violent solutions to community problems. There was, unfortunately, no one calling for non-violence to speak out before these crowds. Certainly, with what the defendants recklessly did to the petitioner, through their libelous article, he could not speak out. The respondents, in publishing their falsehoods, made it extremely dangerous for petitioner to speak out and, thereby, crippled petitioner's freedom of speech under the United States Constitution, Amendment I. However, prior to the publication of respondents'

libelous article, petitioner did try to speak out for non-violence during a morning recess of the coroner's inquest.

As chairman of the Concerned Citizens Committee (the court below and the respondents erroneously refer to "Concerned Citizens of East Los Angeles"), the petitioner worked with responsible citizens of both East and West Los Angeles to create employment for teenagers as student tutors in East Los Angeles High Schools. This was in keeping with our true goals as set out on page 56 of the Clerk's Transcript. Militants have been striving to perpetuate hatred within East Los Angeles for the so-called "Anglo" community outside the Barrio. The Concerned Citizens Committee carefully chose its name to encourage young people to identify with a community-wide organization which included Westside people.

Had respondent Smith been a prudent, careful reporter, he could have asked the true purpose of the Concerned Citizens Committee and received a copy of same as set out on page 56, Clerk's Transcript.

The above is extremely important to relate because of the fearful atmosphere

prevalent at the time the respondents published their false and libelous article. Words could, and did, inflame hatreds and passions which led to horrible riots. Constructive words, names and statements of goals or purpose were, therefore, very important -- the need to express them accurately and responsibly was, and is, imperative. The respondents recklessly and irresponsibly ignored this as their inaccurate, libelous article demonstrates.

On September 23, 1970, during a morning recess, the petitioner tried to speak out for a more reasoned, non-violent approach to events. The petitioner was prohibited from completing his statements because a torrent of vile, obscene and irresponsible tirades were hurled at him by the Chicano militants. Thus, the petitioner was deprived of his right of freedom of speech under the United States Constitution, First Amendment. Moreover, the respondents aided this stifling of petitioner's freedom of speech by publishing and, thereby, amplifying the wild falsehood uttered by anonymous militants in that "obscene" crowd ("obscene" is the

descriptive word used by the respondents, themselves, in their libelous article).

A true copy of the libelous and inaccurate article published by respondents is on pages 7, 8 and 9 (Exhibit A) of the Clerk's Transcript. A quotation therefrom follows:

> "Wednesday's session was orderly, but a morning recess was something else.
>
> "A bilingual and frequently obscene shouting match developed when J. Alex Cota, a Westwood realtor, was interviewed by Keven Sanders, KTLA (Channel 5) commentator.
>
> "Cota, head of a group called Concerned Citizens of East Los Angeles, said his group deplored rock-throwing, arson and rioting such as that of Aug. 29.
>
> "Tempers began fraying among Mexican-American observers at the inquest and several people began shouting epithets, in Spanish and English, at Cota.

"'You're not a Chicano! yelled one. 'You're a Spaniard! yelled another.

"Cota retorted, 'My mother was born in Sonora, Mexico.'

"As the rhetoric heated, Cota shouted, for the first time in Spanish, 'Ustedes desgraciados!' ('You are disgraceful') and his antagonists erupted in anger. Furious shouts were exchanged for about 10 minutes and several youths accused Cota of selling slum housing in East Los Angeles and deploring the riots because of his investments.

"Cota retorted that he had been working to improve East Los Angeles living conditions since 1959, adding that he was born and raised there.

"'Yeah,' shouted one youth, 'when the Jews and Russians lived there, but you moved out when the Chicanos moved in.'

"Pittluck, returning to the chaotic hearing room, gaveled the inquest to order and began to

question Mrs. Castello. He was halted when reminded that he had forgotten to order the jury brought in.

"After the jury was seated, Pittluck tried again to question Mrs. Castello, but was halted when reminded she had not been sworn in.

"With a small smile and shake of the head, Pittluck waited, then resumed. Cota left the inquest shortly after the recess." End of quotation from Los Angeles Times, Part 1, page 23, published September 24, 1970.

As the above-cited excerpt from the libelous article clearly shows, the Los Angeles times and its writers recklessly published malicious, inflammatory and defamatory statements about petitioner, allegedly quoted from anonymous sources during a chaotic recess, without seeking out the petitioner for his views or giving him a fair chance to refute the malicious lies. The Declaration of David M. Smith, Los Angeles Times writer and respondent

herein, admits the following: "At no time did the Times ever take the initiative and seek out Mr. Cota for his views." (C.T. p. 21, paragraph 20, line 26).

Since there was no official proceeding (it was recess) nor any official record of any kind, it is, and was, impossible for petitioner to verify that the statements were in fact made by others than the respondents themselves in their libelous publication. There are certainly enough inaccuracies in the respondents libelous article to question their reliability as reporters.

Among other inaccuracies and libels, the Times' article maliciously and recklessly stated as set out above: "... and several youths accused Cota of selling slum housing in East Los Angeles and deploring the riots because of his investments." Needless to say, this reckless and wanton libel, published by respondents, gave some demented fire-bombers fancied justification or motive for first, bombing the office of Realtor Al Cota, and upon discovering their error, subsequently, fire-bombing the office of petitioner. Only the Los Angeles Times published this malicious libel against

petitioner. This malicious justification or motive would not have been implanted had the Los Angeles Times, i.e. the respondents, exercised even minimum care in reporting about a "chaotic" recess of the coroner's inquest. The fire-bombing so terrorized petitioner's landlord he evicted petitioner from his office causing petitioner great hardship.

Certainly, television reporters exercised due care and did not permit libelous statements to go out to the public as did respondents. The respondents took it upon themselves to circulate amongst the hostile crowd and extract those alleged statements of libel against petitioner which they later recklessly chose to publish without regard to truth or falsity. They have absolutely no substantiation for their falsehoods which they apparently obtained from anonymous persons (unknown even to respondents themselves) in that obscene crowd.

Among other things, the respondents inaccurately describe petitioner as a "Realtor". It must be pointed out that the term "Realtor" is not a synonym for Real

Estate Broker. Petitioner, a Real Estate Broker, cannot use the appellation "Realtor" on a sign. "Realtor" is a term of identification put on office signs which would single out, "Realtor" Al Cota, who is in no way related to plaintiff, J. Alex Cota. This careless identification together with the viciously false libel about "selling slum housing in East Los Angeles" (published only by respondents) directed great danger and harm not only to petitioner but to others as well. As stated, Mr. Al Cota's office was first fire-bombed by the "Chicano Liberation Front" and, subsequently, so was the office of petitioner, J. Alex Cota.

> "In California the unauthorized use of the term 'Realtor' is a violation of the Real Estate Law." Reference Book, California Department of Real Estate, Vol. 1, 1971, pages 66, 67.

The reckless and irresponsible identification or description of petitioner by respondents in their libelous article had absolutely nothing to do with the subject

matter of the coroner's inquest. It brought only danger and harm.

On or about October 4, 1970, petitioner caused to be served on respondents a demand for a correction or retraction as provided in § 48a of the Civil Code of the State of California, a copy of which is attached to the complaint, marked Exhibit B, and incorporated by reference. Up to and including the present, respondents have failed and refused, and still fail and refuse to print or publish a correction or retraction of all the aforesaid false and inaccurate statements concerning petitioner, as provided by law.

The petitioner's complaint stated the pecuniary, general, special, exemplary and punitive damages requested which are incorporated herein by reference.

The respondents based their defense on:

1. Statutory privileges afforded by Subdivisions (2), (4) and (5) of § 47 of the Civil Code of California;

2. Privilege under the United States Constitution.

The Court below erroneously, as the case will bear out, applied the law and a affirmed Summary Judgment for the respondents; hence, this petition.

ISSUES

WHETHER OR NOT COMPLETELY UNSUBSTANTIATED, LIBELOUS STATEMENTS ALLEGEDLY UTTERED BY ANONYMOUS (UNKNOWN TO EVEN RESPONDENTS THEMSELVES) PERSONS IN AN "OBSCENE" CROWD INTENT UPON SILENCING PETITIONER'S FREEDOM OF SPEECH, DURING A "CHAOTIC" RECESS, WHILE NO LEGAL OR QUASI-LEGEL PROCEEDINGS OF ANY KIND WERE IN PROGRESS, CAN BE PUBLISHED BY RESPONDENTS AS PRIVILEGED UNDER THE UNITED STATES CONSTITUTION, FIRST AMENDMENT, AND ENTITLE THEM TO SUMMARY JUDGMENT?

This issue is of great importance since no citizen will be safe to exercise his freedom of speech (as petitioner tried to do) against an "obscene" mob spewing venom and threats; especially, when a vast metropolitan newspaper, such as the Los Angeles Times, recklessly prints malicious libel from anonymous sources within that same mob. The threat to freedom of speech under the United States Constitution, First Amendment, is all too plain.

1. ANALYSIS OF DEFENDANT DAVID M. SMITH'S DECLARATION

A careful examination of respondent David M. Smith's declaration (page 19, Clerk's Transcript) clearly establishes respondents are not entitled to summary judgment.

On page 19 of the Clerk's Transcript, line 16, declaration of respondent Smith, he states:

> "4. Shortly after the death of Mr. Salazar, I (and a photographer from the times) was assigned to cover a rally by a group called 'Concerned Citizens of East Los Angeles'.
>
> ". . . 5. One of those attending the rally introduced himself to me as J. Alex Cota. He said that he was a westwood businessman . . .". . . .
>
> "This was the first time that I met J. Alex Cota." (Lines 23, 24, and 31, page 19, Clerk's Transcript.)

By his own declaration, respondent Smith established his personal, actual knowledge, well before the Salazar Coroner's Inquest, that he knew that the petitioner, J. Alex Cota was a Westwood (West Los Angeles) businessman. Yet, he recklessly and wantonly disregarded this fact and carelessly caused to be published, in the Los Angeles Times, the vicious, dangerous lie, without any substantiation whatsoever, that "several youths accused Cota of selling slum housing in East Los Angeles".

Respondent Smith's declaration also clearly shows the extreme hostility exhibited by the Chicano militants.

Respondent Smith's declaration states: "13. There was a lengthy morning recess. During the recess Mr. Cota approached Kevin Sanders of Channel 5 who was covering the television proceedings that morning." (Clerk's Transcript, page 20, lines 27-29). A prudent and responsible reporter would realize at least an elementary check or inquiry should be made before he printed defamatory remarks taken during a recess from an obscene crowd. Such libelous statements, deliberately designed to

discredit, silence and injure the petitioner and his right to free speech, had no more official standing (it was recess) than obscene graffiti; yet, the respondents recklessly published the malicious defamation anyway.

Respondent Smith's declaration states: "20. At no time did the Times ever take the initiative and seek out Mr. Cota for his views." (Clerk's Transcript, page 21, lines 26-27). This is clear evidence that elementary precautions of responsible reporting were ignored by respondents. At the very least, the respondents might have been fair enough to ask the petitioner about the wild statements made by anonymous persons in that obscene mob. The petitioner could then have pointed out what respondent Smith states he already knew: namely, petitioner's office was in Westwood, far removed from East Los Angeles.

All the above facts, garnered from the respondent's own declaration, evidence the wanton and reckless disregard the respondents showed in publishing the libel per se against the petitioner. Clearly, it was error to grant the respondents summary

judgment.

The United States Supreme Court in finding in favor of the plaintiff in Curti Publishing Co. v. Butts, 388 U.S. 130, at page 156, stated:

> "The Butts jury was instructed, in considering punitive damages, to assess 'The reliability, the nature of the sources of the defendant's information, its acceptance or rejection of the sources, and its care in checking upon assertions.' These considerations were said to be relevant to a determination whether defendant had proceeded with 'wanton and reckless indifference.' In this light we consider that the jury must have decided that the investigation undertaken by the Saturday Evening Post, upon which much evidence and argument was centered, was grossly inadequate in the circumstances."

At page 157 of the Butts case:

> "Elementary precautions were,

nevertheless, ignored. The Saturday Evening Post knew that Burnett had been placed on probation in connection with bad check charges, but proceeded to publish the story on the basis of his affidavit without substantial independent support."

At page 158 of the Butts case:

"In short, the evidence is ample to support a finding of highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers."

The above excerpt from the Curtis Publishing Co. v. Butts case, supra, clearly shows the Court of Appeal incorrectly applied it to the case at hand. This Butts case strongly supports the petitioner's position and calls for reversal of summary judgment in the case at hand. In the Butts case, the Saturday Evening Post relied on a questionable affidavit. In the case at hand, the respondents based their libelous article on even less; namely, anonymous,

unsubstantiated, defamatory fabrications from an obscene crowd. It is clear that the evidence in the case at hand, like the Butts case, is ample to support a finding of highly unreasonable conduct by the respondents constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers.

2. THE UNITED STATES SUPREME COURT, IN THE BUTTS CASE, MAKES CLEAR THAT THE NEW YORK TIMES CO. v. SULLIVAN CASE DOES NOT PRECLUDE A PLAINTIFF WHO IS A PUBLIC FIGURE, FROM RECOVERING IN A LIBEL ACTION

New York Times Co. v. Sullivan (1964) 376 U.S. 254, 11 L.Ed.2d 686, 84 S.Ct. 710), definitely does not preclude a state from protecting its citizens from libel such as that perpetrated by the defendants against plaintiff. In fact, the Curtis Publishing Co. v. Butts (1966) case, 388 U.S. 130, 18 L.Ed.2d 1094, 87 S.Ct. 1975, decided after New York Times v. Sullivan, found in favor of a plaintiff, who was a public figure.

Butts was falsely accused of conspiring to "fix" a football game in an article in the Saturday Evening Post. Butts sued for libel even though he was a public figure and well-known coach. Evidence on the preparation of the article, "Cast serious doubt on the adequacy of the investigation underlying the article." (Page 138, Curtis Publishing Co. v. Butts, supra). The United States Supreme Court held in this Butts case that:

> "Our resolution of New York Times Co. v. Sullivan, . . . makes clear, however, that neither the interests of the publisher nor those of society necessarily preclude a damage award based on improper conduct which creates a false publication." (Page 152 Curtis Publishing Co. v. Butts, supra).

3. "WHERE A PUBLISHER'S DEPARTURE FROM STANDARDS OF PRESS RESPONSIBILITY IS SEVERE ENOUGH TO STRIP FROM HIM THE CONSTITUTIONAL PROTECTION OUR DECISION ACKNOWLEDGES, WE THINK IT ENTIRELY PROPER FOR THE STATE TO ACT NOT ONLY FOR THE PROTECTION OF THE INDIVIDUAL INJURED BUT TO SAFEGUARD ALL THOSE SIMILARLY SITUATED AGAINST LIKE ABUSE." (Page 161, Curtis Publishing Co. v. Butts, 388 U.S. 130)

Respondents' declarations, in the case at hand, show that they made absolutely no investigation of the wild charges emanating from an "obscene" mob; that they relied upon unknown, even to themselves, anonymous, and unsubstantiated sources, or persons at a "chaotic" recess of the Coroner's Inquest. Respondents' declarations show that they knew well in advance of the date they published their libel against petitioner, that he was a "Westwood businessman"; yet, without the slightest substantiation, or even an elementary inquiry, they published the lie that "Youths accused Cota of selling slum housing in East Los Angeles". The respondents recklessly published this malicious

defamation even though the respondents own declarations show respondents were aware of the extreme hostility of the Chicano militants -- a hostility which was only amplified into greater hatred and calumny, and physical danger toward petitioner by the respondents' reckless, wantonly careless, libelous publication. It is evident that the Curtis Publishing Co. v. Butts case, supra, strips any constitutional protection from the respondents herein.

The United States Supreme Court stated on page 155 of the Butts case:

> "We consider and would hold that a 'public figure' who is not a public official may also recover damages for a defamatory falsehood whose substance makes substantial danger to reputation apparent, on a showing of highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers."

It is manifestly clear that the court of appeal was in error in applying the law to the facts at hand. Most certainly, the Butts case, which was cited by the Court of Appeal as an authority in its "discussion" (page A-5), overwhelmingly supports the petitioner's position in the case at hand.

4. THE FACT THAT A CITIZEN THRUSTS HIMSELF INTO THE "VORTEX" OF MATTERS OF PUBLIC INTEREST DOES NOT DEPRIVE HIM OF EITHER HIS FREEDOM OF SPEECH OR PROTECTION, UNDER THE LAW, FROM VICIOUS DEFAMATORY LIBEL

The Court of Appeal cited, in its "Discussion" (see Appendix, page A-7), Associated Press v. Walker, 388 U.S. 130. It was error to apply this Walker case to the one at hand. The United States Supreme Court differentiated this case from Curtis Publishing Co. v. Butts in the following manner:

"The situation in Walker is considerably different. There the trial court found the evidence

insufficient to support more than a finding of even ordinary negligence . . ." (Page 158, Curtis Publishing Co. v. Butts, 388 U.S. 130).

On page 159 of the Butts case are some of the facts about how Walker thrust himself into the "vortex" of a matter of public interest:

"On September 26, 1962, Walker had made a statement on radio . . . urging people to 'rise to a stand beside Government Ross Barnett' . . . He contended that the people had 'talked, listened and been pushed around far too much' . . . On September 29, 1962, Walker. . . called for 'violent vocal protest'. . . . September 30, 1962, Walker . . . again urged defiance of court orders and federal power."

The United States Supreme Court stated:

"In contrast to the Butts article, . . . dispatches in this instance . . . were internally consistent and would not have seemed unreasonable to one familiar with

> General Walker's prior publicized statements on the underlying controversy . . . nothing in this series of events gives the slightest hint of a severe departure from accepted publishing standards. We therefore conclude that General Walker should not be entitled to damages from the Associated-Press." (Pages 158, 159, Curtis Publishing Co. v. Butts, supra)

In referring to the Walker case as an authority in the case at hand, the Court of Appeal is very much in error. Walker's whole pattern of behavior in thrusting himself into the "vortex" was contrary to the general welfare and public interest. He urged "violent vocal protest" and "defiance of court orders and federal power." The correspondent's dispatches to the Associated Press were consistent with Walker's pattern of behavior. This is completely different from the case at hand. Here, the petitioner, J. Alex Cota, urged non-violence and called for reason to prevail while an "obscene" mob at a "chaotic" recess shouted him down in order to stifle

his right to speak out against the rhetoric of violence. The respondents amplified the efforts of the mob to defame and discredit petitioner's motives in calling for non-violence by publishing unsubstantiated, malicious libel. .

The respondents in publishing the vicious, unsubstantiated libel that ". . . several youths accused Cota of selling slum housing in East Los Angeles and deploring the riots because of his investments" were clearly acting against the public interest. First, this vicious libel per se, which attacks petitioner's livelihood or occupation, had absolutely nothing to do with the subject matter at hand; second, the respondent David Smith knew that the petitioner was a "Westwood businessman" (Smith's declaration, page 19, line 24). Therefore, the respondents had ample information to believe that the obscene and insulting statements made during a chaotic recess were designed solely to defame, and injure freedom of speech under the United States Constitution, Amendment I.

Freedom of speech becomes an extremely perilous exercise in futility, rather than

a right, when a citizen, trying to speak out against the rhetoric of violence, must subject himself not only to the obscene rantings of a hostile crowd, but to the wanton, reckless reporting of unsubstantiated lies by a huge newspaper such as that of respondents herein. It is of utmost importance to the public interest, in these days of turmoil, bombings and strife, to encourage citizens to speak out in favor of non-violent means of solving community problems. However, if the decision in the case at hand is allowed to stand, then a careless and irresponsible reporter can act as a huge amplifier for anonymous voices in a hostile crowd by publishing their lies. No citizen will dare to step into the "vortex" under such circumstances. Ultimately, freedom of the press will suffer because freedom of speech is the foundation upon which freedom of the press must rest.

> "But it must be emphasized that malicious libel enjoys no constitutional protection in any context. The malicious utterance of defamatory statements in any form cannot be condoned. . . on the contrary,

state remedies have been designed to compensate the victim and enable him to vindicate his reputation." United States Supreme Court, Linn v. Plant Guard Workers (1965), 383 U.S. 53 at page 63.

California Civil Code §§ 45, 45(a) and 46.

5. PERSONS WHO BECAME INVOLVED IN MATTERS OF PUBLIC INTEREST ARE ENTITLED TO PROTECTION OF THE LAW FROM MALICIOUS LIBEL WHERE, AS IN THE CASE AT HAND, THERE IS A RECKLESS DISREGARD OF TRUTH

The Court of Appeal erroneously cites Rosenbloom v. Metromedia, Inc. (1971) 403 U.S. 29, 29 L.Ed.2d 296, 91 S.Ct. 1811, to preclude petitioner from recovery. Discussion pages A-7 and A-8). This Rosenbloom case involved a distributor of nudist magazines. He sued for libel when a Radio Station, in two broadcasts, referred to the distributor's arrest for possession of obscene literature without, at one point, describing the seized books as allegedly obscene, which omission was corrected in

subsequent broadcasts, etc. The United States Supreme Court held that the evidence was insufficient to sustain an award for the plaintiff under "The constitutional standard of knowing or reckless falsity" which "applied whenever the allegedly defamatory statements related to the plaintiff's involvement in a matter of public or general concern . . . regardless of whether the plaintiff was a 'public official', a 'public figure', or a 'private individual'." Page 297 (Underline added).

It can readily be argued that the malicious falsehood, in the case at hand, which attacks petitioner's livelihood or occupation; namely, that ". . . youths accused Cota of selling slum housing in East Los Angeles . . ." is completely unrelated to the petitioner's involvement in this matter of public or general concern. This completely unsubstantiated libel was designed only to stifle petitioner's freedom of speech and discredit his reputation. However, it is plain that this Rosenbloom case does not deprive a citizen of recourse where respondents, as in the case at hand, publish libel in

reckless disregard of the truth.

Let us examine the following cases which clearly hold for plaintiffs involved in matters of public interest:

> "We accept the position of Time . . . that the standards of New York Times v. Sullivan . . . are applicable even though appellant was not a public official, since he was engaged in a matter of public interest and concern. However, . . . it is undisputed that Time knew that Wasserman, like Ragano, was an attorney for one or more of the men in the group referred to in the article and was not one of those called before the Grand Jury and released on $100,000 bail. Time's position is that by attending the delayed lunch meeting the attorneys were playing a part and were engaging in a demonstration defiant of the law, which justified Time in its editorial decision reached in good faith not to refer to appellant and Ragano as attorneys, but to place them in the same

category as the others characterized in the article as we have set forth. Such a decision on the part of the editors of Time, however, would not preclude responsibility for any defamation known to be false or made with reckless disregard of the truth.

The judgment is reversed and the case is remanded for trial on the issues of actual malice, defamation and possible damages." Wasserman v. Time, Inc. (Action for libel 1970) 424 F.2d 920 at page 922.

"Characterization of attorney, who was shown in photograph accompanying national newsweekly article discussing luncheon gathering of 13 Cosa Nostra hoodlums but who was not referred to as attorney, as a top Cosa Nostra hoodlum, was a characterization reasonably capable of a defamatory meaning affecting attorney both individually and in his profession and showing that publisher knew attorney's status

when it published article was sufficient to show reckless disregard of the truth and to take attorney's defamation action against publisher to jury precluding summary judgment." Ragano v. Time, Inc., 302 F.Supp. 1005 (1969) at page 1006 (Headnote)

In the above cited Ragano v. Time, Inc. case, the plaintiff conceded . . . "that the matters and circumstances attendant upon representation of his client in the New York proceedings did in fact place him in the public light." In other words, in the Ragano case, supra, the " . . . plaintiff . . . could be considered as being a person whose activities might be viewed as a matter of 'public interest' or 'public inquiry.'" Page 1006, Ragano v. Time, Inc. The court ruled against the libelous actions of Time, Inc. and stated: "It is the court's view that such actions may be considered as reckless disregard for the truth and therefore not entitled to the First Amendment protections." (Ragano, page 1007.)

Like Time, Inc. that knew that Wasserman

and Ragano were attorneys, but went recklessly ahead and published their libelous article, so also, in the case at hand, did the respondents have actual personal knowledge that petitioner was a "Westwood businessman"; yet respondents herein went ahead and published the lie accusing petitioner of selling slum housing in East Los Angeles -- a lie not only contrary to their own knowledge, but also based on anonymous, unsubstantiated viciousness emanating from a hostile, obscene mob. The Wasserman and Ragano cases hold, contrary to the erroneous findings of the Court of Appeal on page A-7 of its "Discussion" in the case at hand, that persons who become involved in matters of public interest are entitled to protection of the law from malicious libel where, as in the case at hand, there is a reckless disregard of truth. As can be readily seen, judgments were rendered in favor of both Wasserman and Ragano, in their separate suits for libel against Time, Inc. even though it was conceded they became involved in matters of "public interest".

Curtis Publishing Co. v. Butts (1966) 388 U.S. 130 at page 155:

". . . but that the rigorous federal requirements of New York Times are not the only appropriate accomodation of the conflicting interests at stake. We consider and would hold that a 'public figure' who is not a public official may also recover damages for a defamatory falsehood whose substance makes substantial danger to reputation apparent, on a showing of highly unreasonable conduct constituting an extreme departure from the standards of investigation and reporting ordinarily adhered to by responsible publishers."

The Curtis Publishing Co. v. Butts case at page 164, states that the New York Times standard . . .

". . . definition of 'actual malice' is not so restrictive that recovery is limited to situations where there is 'knowing falsehood' on the part of the publisher of false and defamatory matter. 'Reckless disregard' for the truth or falsity, measured by the conduct of the publisher, will

also expose him to liability for publishing false material which is injurious to reputation."

6. SUMMARY JUDGMENT IS NOT CONSTITUTIONALLY MANDATED AND WAS ERRONEOUSLY GRANTED IN THE INSTANT CASE

A recent ruling by the United States Supreme Court denying an Arizona newspaper's motion for summary judgment in a libel suit makes amply clear that respondents are not entitled to the erroneous ruling of the court below:

> "No. 71-1099. Phoenix Newspaper, Inc. v. Peagler. Ruling below (Ariz Super Ct Maricopa City, 12/8/71): Arizona newspaper's motion for summary judgment in libel suit against it arising out of its publication of article, based on interview with two former employees of Phoenix Better Business Bureau, stating that some of bureau's own members 'engage in highly questionable sales methods' and specifically naming alleged worst

offenders, is denied without opinion." 4-18-72, 40 L.W. 3499.

7. DEFENDANTS HAD INFORMATION AND REASON TO BELIEVE THAT THE "OFFENDING" STATEMENTS MADE ABOUT PLAINTIFF WERE FALSE

The Court of Appeal states on page 6 of its "Discussion" (see Appendix page A-8):

> "Defendant Smith, who actually committed the offending statements to writing and incorporated them in the story, averred that he had 'no information or reason to believe that the statements made about Mr. Cota [by the militants] . . . were false.'"

Again, this averment is not controverted by Cota. It clearly negatives knowing falsehood as well as recklessness, since it precludes the conclusion "that the defendant in fact entertained serious doubts as to the truth of his publication", (St. Amant v. Thompson (1968) 390 U.S. 727, 20 L.Ed.2d 262, 88 S.Ct. 1323, or that any defendant possessed a "high degree of awareness of . . . probable falsity." (Garrison v.

Louisiana (1964) 379 U.S. 64, 13 L.Ed.2d 125, 85 S.Ct. 209.)

The above quotation flies in the face of the fact that respondent Smith had actual knowledge that the petitioner was a Westwood businessman, by his own admission in his declaration, well before he "committed the offending statements to writing." (Page 19, Clerk's Transcript, declaration of David M. Smith). Obviously, "Westwood" (in West Los Angeles) is far removed from East Los Angeles, so respondent Smith had abundant reason to question unsubstantiated, anonymous ravings that petitioner was selling slum housing in East Los Angeles from a crowd he, himself, characterizes as hostile and "obscene" during a "chaotic" recess. Respondent Smith's own declaration and his libelous article show a "high degree of awareness of . . . probable falsity" regardless of whether he will acknowledge his reckless disregard of the truth or not.

As is stated in St. Amant v. Thompson, 390 U.S. at page 732:

"The defendant in a defamation action brought by a public official

cannot, however, automatically insure a favorable verdict by testifying that he published with a belief that the statements were true. The finder of fact must determine whether the publication was indeed made in good faith. Professions of good faith will be unlikely to prove persuasive, for example, where a story is fabricated by the defendant, is the product of his imagination, or is based wholly on an unverified, anonymous telephone call. Nor will they be likely to prevail when the publisher's allegations are so inherently improbable that only a reckless man would have put them in circulation. Likewise, recklessness may be found where there are obvious reasons to doubt the veracity of the informant or the accuracy of his reports."

Most certainly, as in the case at hand, where careless, wantonly reckless reporting leads to calumny, hatred and fabricates a dangerous motive (selling slum housing) for hostile militants, fire-bombings can, and

do, result. Respondents' confused and careless reporting identified Mr. Al Cota (unrelated to petitioner in any way), an East Los Angeles realtor as wrongfully as it did the petitioner, who was a Westwood real estate broker until his office, like that of Al Cota, was also fire-bombed. As is stated in the St. Amant v. Thompson case, supra, "Professions of good faith will be unlikely to prove persuasive . . . where a story . . . is based wholly on an unverified, anonymous telephone call." Respondents certainly demonstrate wanton reckless disregard of the truth.

8. IN THE CASE AT HAND, THE RESPONDENTS HAVE VIOLATED THEIR OWN "PROFESSED" STANDARDS OF REPORTING, AS DEMONSTRATED BY THE FOLLOWING EDITORIAL IN THE LOS ANGELES TIMES:

(see page 45)

Los Angeles Times
6—Part II WEDNESDAY MORNING, AUGUST 2, 1972

'Inexcusable' Is the Word

Syndicated columnist and broadcaster Jack Anderson now says it was "inexcusable" of him to put over the air a story that Sen. Thomas F. Eagleton had a long record of arrests for drunken and reckless driving, and he has offered "a great and humble apology" for his action. Eagleton says that as far as he is concerned, "the book is closed." If the incident were only a case of one man besmirching the reputation of another, nothing more would have to be said. But there is more involved than that.

What Anderson did was to take a piece of unsubstantiated gossip he had heard four years earlier and, without submitting it to the rigorous check it required, announced it as fact over the radio. Anderson later said he rushed to broadcast the unverified allegation under "competitive" pressure, meaning he was afraid that if he didn't come out with the story quickly, someone else would. As it happened another columnist did have a tip similar to Anderson's. That columnist, however, took the trouble to seek substantiation and, finding none, properly kept silent.

A careful check by Anderson for evidence to support his charge should have been not only routine but mandatory, as he now admits. But Eagleton was a hot news item, and Anderson chose to put opportunism before professionalism. That was doubly irresponsible. It violated a basic tenet of the journalist's craft and worse, again as Anderson admits, it did damage to Eagleton at a time of great personal travail.

In one thing, at least, Anderson was accurate: "inexcusable" is the appropriate word for his action.

9. INEXCUSABLE, RECKLESS DISREGARD OF WHETHER IT WAS FALSE OR NOT IS THE RULE THE RESPONDENTS HAVE VIOLATED IN THE CASE AT HAND, AND THIS DEPRIVES THEM OF CONSTITUTIONAL PRIVILEGE

The declarations of respondents show, beyond question, that they took a piece of unsubstantiated maliciousness and, without submitting it to the rigorous check it required, published it at a time of intense hostility and travail. As it happened, no other news media was so irresponsible as the respondents herein.

A careful check by respondent Smith should have been not only routine, but mandatory -- especially, because of his prior knowledge; the fact that he was relying upon unsubstantiated statements by anonymous "youths" in an obscene, hostile crowd; and the dangerous atmosphere during a "chaotic" recess. But the petitioner herein was "newsworthy" (Declaration of David M. Smith, page 21, Clerk's Transcript) or a hot news item, and respondent Smith (indeed, all respondents) chose to put opportunism before professionalism. That

was doubly irresponsible. It violated a basic tenet of the journalists' craft and worse, it did damage to the petitioner at a time of great travail.

The petitioner pointed out in his demand for a retraction that the article written by respondents was clearly libelous and extremely dangerous to the petitioner (Plaintiff's Exhibit B, incorporated by reference in the complaint, page 10, Clerk's Transcript). However, quite hypocritically, to say the least, the respondents would not retract as did columnist Jack Anderson. There is more involved than that. In these terrible times of violence and danger, care must be taken to encourage responsible, constructive voices to speak out for non-violence instead of striking them down with irresponsible, opportunistic journalism. If not, freedom of speech is in peril.

"Inexcusable" is the appropriate word for the reckless and careless libel the respondents published in the case at hand. Doubly so, because it violates not only the law, but also their own "professed" standards.

10. DEFENDANTS HAVE NO PRIVILEGE OR IMMUNITY TO PUBLISH UNSUBSTANTIATED LIBEL UNDER STATUTORY LAW

The Court of Appeal, in its "discussion" of the law it applied to the case at hand, does not apply § 47 of the Civil Code (concerning reports of public official proceedings or public meetings). In fact, on page 2 of its Decision, under its "Facts" section, the Court of Appeal's findings state: "The militants received considerable attention from the news media, causing plaintiff . . . to approach a television newscaster during a recess . . ." (Underline added). This statement of fact, together with the declarations, the complaint and the libelous article, clearly establishes that there were absolutely no official or quasi-legal proceedings of any kind in progress. Indeed, the libelous article, as it relates to the petitioner, speaks of "A morning recess". The respondents, themselves, describe the recess as "chaotic" (Petitioner's Exhibit A, Clerk's Transcript, page 9).

The facts clearly show: 1. There was no hearing officer present to call for

order or ask people to identify themselves; 2. No jury was present; 3. No witnesses sworn; 4. That there was a "chaotic" recess in progress which any reasonably prudent reporter would have recognized as being far from a legal proceeding of any kind; 5. That there was no atmosphere of free and open debate, but rather a hostile mob shouting obscenities at appellant; 6. That only the respondents solicited the false statements involved herein from anonymous, unsubstantiated elements in that hostile crowd.

It is quite evident that § 47 of the Civil Code does not apply to the case at hand. Hence, the defendants have no statutory immunity to publish their libel against petitioner.

> ". . . Surely it was not the legislative intent to grant an absolute privilege for every defamatory utterance made in every lawful meeting. We are persuaded that the 'official proceeding' embraced in the purview of the statute is that which resembles judicial and legislative proceedings, such as transactions of administrative boards

and quasi-judicial and quasi-legislative proceedings, not a meeting of a board of directors of a non-profit corporation or the like." (1961) McMann v. Wadler, 189 Cal.App.2d 124, at pages 128, 129.

The case of Lyon v. Fairweather, 63 Cal. App. 194, in ruling as to the applicability of § 47 stated: ". . . The statute does not include as privileged facts outside the record or comments by the writer." (Page 197).

"Recess. In the practice of the courts, a short interval or period of time during which the court suspends business, . . ." (Underline added) Black's Law Dictionary, Fourth Edition.

CONCLUSION

The decision below affirming summary judgment is contrary to law and fact. This case involves libel per se against the petitioner, not only because respondents' malicious libel exposed him to hatred, contempt

and ridicule, but because it injured him in his occupation. Respondents' vicious libel injured petitioner's freedom of speech under the United States Constitution, Amendment One. The complaint properly joined issue with the respondents' falsehoods.

It is not in the public interest to allow reckless, irresponsible publication of libel founded upon wild charges which are meant only to injure a citizen's freedom to speak out in favor of non-violence. Ultimately, freedom of speech is the foundation upon which freedom of the press must stand. Freedom of speech must not be stifled by the ravings of an "obscene" mob which are echoed and magnified by reckless disregard for truth in irresponsible publications. Only the mob will be heard under such circumstances.

The respondents' declarations show they are not entitled to privilege under constitutional or statutory law. Therefore, it is respectfully requested that this petition be granted and that the judgment below be reversed.

Respectfully submitted,
J. ALEX COTA
Petitioner in Pro Per

NOT FOR PUBLICATION

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE

J. ALEX COTA,

Plaintiff and Appellant,

v.

OTIS CHANDLER, DAVE SMITH, PAUL HOUSTON, THE LOS ANGELES TIMES, a division of the Times Mirror Company (sued as THE LOS ANGELES TIMES, INC., a corporation), and DOES I to XX, Inclusive,

Defendants and Respondents.

2d Civ. No. 40408

S.Ct. No. C 12339

FILED
Mar 22 1973

APPEAL from judgment of the Superior Court of Los Angeles County. Parks Stillwell, Judge. Affirmed.

J. Alex Cota, in propria persona, for Plaintiff and Appellant.

Robert C. Lobdell; Gibson, Dunn & Crutcher and Robert S. Warren and Gary D.

Stabile for Defendants and Respondents.

Appeal from summary judgment for defendants Los Angeles Times, Otis Chandler and reporters Dave Smith and Paul Houston in a libel action brought by plaintiff J. Alex Cota.

FACTS

During a period of disorder in East Los Angeles in 1970, the noted reporter Ruben Salazar was killed. The community took great interest in the coroner's inquest into his death and among those attending were members of militant "Chicano" groups. The militants received considerable attention from the news media, causing plaintiff, leader of a more moderate organization, Concerned Citizens of East Los Angeles, to approach a television newscaster during a recess and request an opportunity to make a statement on television. The following article, written by defendants Smith and Houston and printed in the 24 September 1970 issue of the Los Angeles Times, describes what ensued.

Wednesday's session was orderly but a morning recess was something else.

A bilingual and frequently obscene shouting match developed when J. Alex Cota, a Westwood realtor, was interviewed by Keven Sanders, KTLA (Channel 5) commentator.

Cota, head of a group called Concerned Citizens of East Los Angeles, said his group deplored rock throwing, arson and rioting such as that of Aug. 29.

Tempers began fraying among Mexican American observers at the inquest and several people began shouting epithets, in Spanish and English, at Cota.

"You're not a Chicano!" yelled one. "You're a Spaniard!" yelled another.

Cota retorted, "My mother was born in Sonora, Mexico."

As the rhetoric heated, Cota shouted, for the first time in Spanish, "Ustedes desgraciados!" ("You are disgraceful") and his antagonists erupted in anger. Furious shouts were exchanged for about 10 minutes and several youths accused

Cota of selling slum housing in East Los Angeles and deploring the riots because of his investments.

Cota retorted that he had been working to improve East Los Angeles living conditions since 1959, adding that he was born and raised there.

"Yeah," shouted one youth, "when the Jews and Russians lived there, but you moved out when the Chicanos moved in."

Cota demanded that the Times print corrections to the accusations that he sold slum housing and that he had moved out of East Los Angeles when the Chicanos moved in. When the Times declined, Cota sued defendants for libel, alleging that they published the accusations of the Chicano militants when they knew or should have known those accusations were false and that the publication was libelous per se because it tended to injure Cota in his business as a realtor.

Defendants answered, admitting their roles in the publication of the article but denying that the article was libelous

or published with malice. They asserted the privilege embodied in subdivisions (4) and (5) of section 47 of the Civil Code (concerning reports of public official proceedings or public meetings) and in the First and Fourteenth Amendments to the United States Constitution and moved for summary judgment. In declarations supporting the motion, Smith and Houston averred they were present when the events described occurred and the article accurately described those events. Smith averred in addition that he had circulated among the angry militants during the exchange and had written down their comments, quoting verbatim in the article those statements he was able to commit to writing. He averred that the article was in keeping with "long-standing reporting principles" and that he had no information or reason to believe the statements made by the militants were false.

Plaintiff filed a counter-declaration and points and authorities in opposition to the motion. The declaration simply incorporated the statement of goals of the Concerned Citizens Committee, averring that

those were the organization's true goals and that the purported goals stated in Smith's affidavit were incorrect. Defendants' motion for summary judgment was granted and plaintiff appeals.

CONTENTIONS

Plaintiff argues that the privileges on which defendants rely are inapplicable and that the trial court therefore erred in granting their motion for summary judgment.

DISCUSSION

Although the appeal is from summary judgment, the issue raised here is not whether plaintiff's counter-declaration presented a triable issue of fact, since it failed to controvert defendants' declarations on any material issue, but whether the facts averred in defendants' declarations legally warranted judgment in defendants' favor.

We think they did.

In New York Times Co. v. Sullivan

(1964) 376 U.S. 254 [11 L.Ed.2d 686, 84 S.Ct. 710], it was held that a public official may not recover damages for defamation unless he proves the offending statement was made with actual malice--i.e., with knowledge that it was false or with reckless disregard of its truth. The Times rule has been extended to public figures as well as public officials (see, e.g., Curtis Publishing Co. v. Butts (1967) 388 U.S. 130 [18 L.Ed.2d 1094, 87 S.Ct. 1975] and ultimately to persons, not otherwise worthy of public notice, who become involved in matters of public interest. (See Rosenbloom v. Metromedia, Inc. (1971) 403 U.S. 29 [29 L.Ed.2d 296, 91 S.Ct. 1811].)

There can be no doubt that, in averring that plaintiff voluntarily thrust himself into the "vortex" of the public furor surrounding Salazar's death, defendants stated facts establishing that Cota was a public figure. (See Associated Press v. Walker (1967) 388 U.S. 130 [18 L.Ed.2d 1094, 87 S.Ct. 1975].) Cota did not controvert this averment in his counter-declaration nor does he argue otherwise here. Likewise, in

averring that the Salazar inquest was the focus of "intense public interest and controversy which received extensive, daily and in-depth coverage by the news media," defendants have stated facts bringing the case within the doctrine of Rosenbloom v. Metromedia, Inc., supra. Again, Cota failed to controvert these facts. We therefore conclude that the New York Times rule, and in particular its definition of actual malice, applies here.

Defendant Smith, who actually committed the offending statements to writing and incorporated them in the story, averred that he had "no information or reason to believe that the statements made about Mr. Cota [by the militants] . . . were false." Again, this averment is not controverted by Cota. It clearly negatives knowing falsehood as well as recklessness, since it precludes the conclusion "that the defendant in fact entertained serious doubts as to the truth of his publication" (St. Amant v. Thompson (1968) 390 U.S. 727 [20 L.Ed.2d 262, 88 S.Ct. 1323]) or that any defendant possessed a "high degree of awareness of . . . probable falsity."

(Garrison v. Louisiana (1964) 379 U.S. 64 [13 L.Ed.2d 125, 85 S.Ct. 209].)

The judgment is affirmed.

NOT FOR PUBLICATION

CLARK, J.

We concur:

WOOD, P.J.

LILLIE, J.

APPENDIX B

CLERK'S OFFICE, SUPREME COURT
4250 STATE BUILDING

SAN FRANCISCO, CALIFORNIA 94102

MAY 16 1973

DEAR SIR: *I have this day filed Order*

MAY 16 1973

HEARING DENIED

In re: 2 Civ. *No.* 40408

Cota

vs.

Chandler

Respectfully,

G. E. BISHEL
Clerk

67733-677 10-72 SM OSP